

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2009-092046

07/01/2011

HONORABLE DAVID M. TALAMANTE

CLERK OF THE COURT
M. Kay
Deputy

IN RE THE MARRIAGE OF
ASHLIE MARIE VANWINKLE

ASHLIE MARIE VANWINKLE
C/O KELLER WILLIAMS
9500 E IRONWOOD SQUARE #100
SCOTTSDALE AZ 85258

AND

MARK JOSEPH MITCHELL

JAMES F WEES

CONCILIATION SERVICES-SE
FINANCIAL SERVICES-BILLING-CCC

MINUTE ENTRY

Courtroom 403 – SEA

Prior to the commencement of today's proceeding, Petitioner's Exhibits 7 through 14 and Respondent's Exhibits 1 through 6 are marked for identification.

2:10 p.m. This is the time set for Evidentiary Hearing re: school choice. Petitioner is present on her own behalf. Respondent is present and represented by above named counsel.

A record of the proceeding is made by audio and/or videotape in lieu of a court reporter.

The Court has reviewed the case file and the pleadings filed by the parties.

The Court has received and reviewed the pretrial statements of the parties and the minute entries of March 7, and April 27, 2011.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2009-092046

07/01/2011

Based on the Court's review of the pleadings and prior rulings,

The Court is not inclined to order that a party pay for a school that they cannot afford.

The Court is not inclined to order a modification of parenting time unless it is directly related to the school issue.

Ashlie M. Vanwinkle and Mark J. Mitchell are sworn.

Respondent's case:

Mark J. Mitchell, previously sworn, now testifies.

Respondent's Exhibits 1 through 6 are offered and received in evidence.

The witness is excused.

Respondent rests.

Petitioner's case:

Ashlie M. Mitchell, previously sworn, now testifies.

Petitioner's Exhibit 11 is offered and received in evidence.

The witness is excused.

Petitioner rests.

Counsel for Respondent presents closing arguments to the Court.

Petitioner presents closing arguments to the Court.

IT IS ORDERED that both parties shall separately attend and complete a High Conflict Resolution class within 60 days of the date of this order. Based on this order, you will be registered and notified by mail of the date/time/location of the class. If you have any questions regarding the class to which you have been assigned, please call (602) 506-6124. A **\$50** fee is required to attend the class. Please present the instruction form or this Court Order with payment at any Clerk of Superior Court filing counter at least 5 days prior to your scheduled class. Each

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2009-092046

07/01/2011

party must bring a copy of the payment or deferral receipt or a confirmation number of a telephonic transaction to the class to be admitted.

WARNING

IF YOU APPEAR LATE OR ATTEMPT TO ATTEND THE CLASS WITHOUT CONFIRMATION OF PAYMENT (AS DEFINED ABOVE) YOU WILL BE TURNED AWAY FROM THE CLASS. IF YOU FAIL TO ATTEND THE CLASS OR ARE TURNED AWAY, YOU MAY BE REQUIRED TO PAY A \$100 NO SHOW FEE. IF YOU CANNOT ATTEND FOR ANY REASON, YOU MUST REQUEST AND BE GRANTED PERMISSION TO RESCHEDULE YOUR ATTENDANCE AT LEAST 24 HOURS BEFORE THE SCHEDULED CLASS. PLEASE CALL THE NUMBER LISTED ABOVE IF YOU NEED TO REQUEST TO RESCHEDULE YOUR ATTENDANCE.

IT IS ORDERED directing the parties to exercise their best efforts to cooperate and communicate with one another to resolve disputes in the future.

IT IS FURTHER ORDERED prior to either party filing any pleading concerning a custody or parenting time dispute, the parties must first seek mediation through Conciliation Services. The mediation will not be confidential in nature. The Court will inquire as to the level of cooperation and discussion between the parties in mediation.

IT IS ORDERED taking this matter under advisement.

There being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of the Court,

IT IS ORDERED that the Clerk permanently release all exhibits not offered in evidence to the counsel/party causing them to be marked, or to their written designee.

IT IS FURTHER ORDERED that counsel/party or written designee take immediate possession of all exhibits referenced above.

Petitioner's Exhibits 7 through 10 and 12 through 14 are released.

4:02 p.m. Hearing concludes.

LET THE RECORD REFLECT prior to the commencement of today's proceeding, Petitioner advised the above named Deputy Clerk that her current mailing address is c/o Keller Williams, 9500 E Ironwood Square #100, Scottsdale, Arizona 85258.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2009-092046

07/01/2011

LET THE RECORD FURTHER REFLECT the courtroom clerk has updated Petitioner's address in ICIS as reflected on the Updated Address Information form filed this date.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

FILED: Exhibit Worksheet and Updated Address Information form.

ISSUED: Exhibit Release Form.

LATER:

The Court has considered the evidence and argument of both parties along with the pretrial statement submitted by both. The hearing was scheduled to consider primarily the issue of school choice. Although, neither party filed a petition to modify custody or parenting time, the issue of parenting time is ancillary to the school choice issue and, as a result, that issue was referenced in a prior minute entry of the Court.

The parties did not discuss or bring to the Court's attention an issue regarding the children's attendance at school during the summer. Therefore, the Court assumes that the parenting time discussed at today's hearing is directly applicable to the upcoming school session after the summer break. Further, although there has been no petition for modification filed, there is no question that there has been a change in circumstances since the signing of the decree of dissolution of marriage. Both parties testified that they had engaged in discussions and agreements to modify the parenting time in the decree based on those changed circumstances. Neither party has requested a change in custody.

IT IS ORDERED affirming that the parties share joint legal custody of the three minor children, Caitlin (DOB: 12/19/98) and Brenden and Brianna (DOB: 11/19/03).

On the issue of school choice,

THE COURT FINDS that it is in the children's best interests to continue school at Our Lady of Perpetual Help. Therefore,

IT IS ORDERED that the children continue to attend Our Lady of Perpetual Help.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2009-092046

07/01/2011

IT IS FURTHER ORDERED that Father be responsible for payment of the tuition for the children's attendance at that school. If there is any demand for payment from the school for unpaid tuition owed by the Mother and payment of that tuition is a bar to the children's continued attendance, then Father will take reasonable efforts to satisfy that obligation to ensure the children's attendance. If Father is required to actually pay the \$2,500.00 owed by Mother to the school, then

IT IS FURTHER ORDERED that Father is entitled to reimbursement from Mother of that \$2,500.00 payable at \$150.00 per month beginning the first day of the first month after Father is required to satisfy that obligation.

The issue of Father's support obligation was not discussed at the hearing. If Father desires a change in the support obligation because of his sole responsibility to pay the school tuition, he may seek a further modification of support after attempting to resolve any dispute with Mother through mediation.

On the issue of parenting time, for the reasons set forth above and for the reasons set forth on the record,

IT IS ORDERED modifying parenting time to reflect the "defacto" parenting time referenced by Father at the evidentiary hearing agreed to by the parties with some assistance of the former Parenting Coordinator, Dr. Yee. Counsel for Father is directed to submit a form of parenting time order, within 15 days of the filing date of this minute entry, consistent with that parenting time arrangement. A copy is to be served upon the Mother. If she objects, the Court may set further evidentiary hearing on the parenting time issue only after the parties have requested and participated in good faith settlement discussions through mediation with Conciliation Services of this court.

THE COURT FINDS that mediation is necessary for the reasons set forth on the record and because the parties' finances do not otherwise indicate that they are able to pay for the continued assistance of a Parenting Coordinator. However, if the parties stipulate and wish to have a Parenting Coordinator appointed, the Court will accept that stipulation and appoint one for them. They may utilize a Parenting Coordinator in lieu of the mediation being ordered by the Court.

IT IS ORDERED that each party is bear their own costs and fees.